

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JIAREN WEI,

Plaintiff,

MEMORANDUM AND ORDER

No. 13-CV-5164 (FB) (CLP)

-against-

LINGTOU ZHENG'S CORP., BING
TAO ZHEN, SARAH CHEN, HALAL
KITCHEN 71 INC., JOHN DOE and
JANE DOE,

Defendants.

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Appearances:

For the Plaintiff:

JIAN HANG, ESQ.
Hang & Associates, PLLC
136-18 39th Avenue, Suite 1003
Flushing, New York 11354

BLOCK, Senior District Judge:

On December 3, 2014, Magistrate Judge Pollak issued a Report and Recommendation (“R&R”) recommending that the Court enter a default judgment against defendants Lingtou Zhengs Corp., Bing Tao Zhen and Sarah Chen in the total amount of \$74,177.59. The R&R stated that “[a]ny objections to this Report and Recommendation must be filed with the Clerk of the Court . . . within fourteen (14) days of receipt of this Report,” and that “[f]ailure to file objections within the

specified time waives the right to appeal the District Court's order.” R&R at 31.

Copies of the R&R were mailed to the defaulting defendants' last known address on the day it was issued, making objections due by December 22, 2014. To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court, however, will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. However, its calculation of prejudgment interest is based on a judgment date of December 3, 2014. Prejudgment interest through today’s date is \$295.50. In all other respects, the Court adopts the R&R without *de novo* review. Accordingly, the clerk shall

enter judgment against Lingtou Zhengs Corp., Bing Tao Zhen and Sarah Chen in the total amount of \$74,205.54, plus postjudgment interest.

SO ORDERED.

/s/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
February 20, 2015